

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1050 of 1982

to

FIRST APPEAL No 1056 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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STATE OF GUJARAT

Versus

MOTIBEN RAVAMALJI

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Appearance:

1. First Appeal No. 1050 of 1982 to First Appeal No 1056 of 1982

Mr. L.R. Pujari, Asstt. GOVERNMENT PLEADER for Petitioner  
SERVED for Respondent No. 1

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CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 30/01/97

ORAL JUDGEMENT

By means of this group of appeals under Section 54 of the Land Acquisition Act (hereinafter referred to as 'the Act') read with Section 96 of the Code of Civil Procedure, the State has challenged the common judgment

and award dated April 23, 1981, passed by the learned District Judge, Jamnagar, in Land Acquisition Cases Nos. 1 of 1981 to 7 of 1981, whereby the learned District Judge has partly allowed the land references and awarded to the claimants Rs.3500/- per hectare as additional compensation along with interest and costs. In Land Acquisition Cases Nos. 1 of 1981 and 4 of 1981, the claimants were awarded Rs.2500/- each as compensation in respect of the wells situated on the acquired lands.

As the all the seven appeals arise out of common judgment and award, and common question of fact and law are involved, the same are disposed of by this common judgment.

The Executive Engineer, Panchayat Division, Jamnagar, had proposed the acquisition of the land situated at village Sanosara, Taluka Dhrol, for construction of the Gadhaka Irrigation Scheme. Notification under Section 4 of the Act was published in the government gazette on November 11, 1977, whereas notification under Section 6 of the Act was published on October 5, 1978. The Land Acquisition Officer had awarded to the claimants Rs.1080 per hectare as market price of the acquired land. The Land Acquisition Officer also awarded to the claimants Rs.10 to Rs.15 per tree which were standing on the respective lands.

Being aggrieved by the award of the Land Acquisition Officer, the claimants made references under Section 18 of the Act before the District Court, Jamnagar. The said references were numbered as Land Acquisition Cases Nos. 1/81 to 7/81.

The claimants in support of their case examined Lalubhai Motibhai at Exh. 31, Dhiribhai Udeysinh at Exh.32, Dhelubha Narsinh at Exh.33. No witness was examined on behalf of the opponent-acquiring body.

For the purpose of determining the market value of the acquired lands, the learned District Judge relied upon sale deed in respect of land bearing survey No.208, which had taken place on March 13, 1978. The said land was sold at Rs.5000/- per hectare. Notification under Section 4 of the Act for the said land was issued on November 11, 1977. Therefore, the learned District Judge had placed reliance on the sale deed relating to the land bearing survey No. 208 which had taken place on March 13, 1978. It also requires to be stated that the said land bearing Survey No. 208 is situated near the

acquired land and, therefore, the learned District Judge was justified in placing reliance on the sale deed relating to the land bearing Survey No.208. As the said sale had taken place after the date of notification under Section 4 of the Act in respect of the lands in the present references, the learned District Judge deducted Rs.1500/- in arriving at the market price of the acquired land. In paragraph 14 of the judgment and award, it is stated that "the land bearing Survey No. 208 has been purchased by the Tad Gol Kendra for establishing their unit, it is quite possible that they may have preferred to pay higher price only with a view to secure the land which was very much suitable for their pursuit. Looking to these facts, and taking into consideration the fact that the land bearing Survey No. 208 is situated towards the developed area, compensation should be awarded to the claimants at the rate of Rs.3500/- per hectare which would be the most appropriate and adequate compensation regard being had to the sale instance in respect of Survey No. 208."

The learned District Judge had rightly not accepted other sale instances which were relied upon by the Land Acquisition Officer in his award by which he had fixed market price of the land at Rs.1080 per hectare. The claimants' witnesses have categorically deposed in their evidence before the court that the lands were having fertility and were irrigated through the wells situated in lands bearing Survey Nos. 236 and 244, which were also acquired along with other lands. Sale deed in respect of land bearing Survey No. 208 was quite proximate to Section 4 notification and, therefore, the market price of the acquired land can be determined taking into consideration the above sale deed.

In this group of First Appeals, the claims involved are of petty nature. It has been the consistent view of this Court including various Division Benches that claims in appeals under section 54 of the Act upto and about Rs.15,000/- are categorised as petty claims and the State ought not to prefer appeals from such petty claims, and if preferred, the same can be dismissed on this ground alone. In the instant case, the maximum additional compensation awarded to the claimants is Rs.14276.60 ps. Therefore, there may not be any hesitation in holding that all these appeals have been preferred in respect of petty claims. Even otherwise, on merits, the market price determined by the learned District Judge is quite just and adequate.

In the result, these appeals have no merit, and

the same are dismissed with no order as to costs.

January 30, 1997 (M. H. Kadri, J.)

(swamy)